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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,225	03/16/2004	Dirk Weichholdt	09242-US	2010
30689	7590	03/02/2006	EXAMINER	
DEERE & COMPANY ONE JOHN DEERE PLACE MOLINE, IL 61265			KOVACS, ARPAD F	
			ART UNIT	PAPER NUMBER
			3671	

DATE MAILED: 03/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/801,225	<b>Applicant(s)</b> WEICHHOLDT ET AL.	
	<b>Examiner</b> Árpád Fábián Kovács	<b>Art Unit</b> 3671	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 January 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 and 11-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 11-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

DETAILED ACTION

*Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-8, 11-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Roberg (EP 0631717 A1).

Prior art discloses:

chopper fig 9, as it is shown in the marked up drawing below;

it is noted in re cl. 1 & 4, that the rotatable chopper (ref 3) receives material from left side, just below the counter blade / shear blade (shown in fig 9), therefore the step shaped shoulder or vibrating toothed conveyor is in the same housing;

a supporting structure (vehicle wheels & frame), threshing & separating assembly, cleaning assembly (cl. 4);

cl. 1 & 4 cont.:

the housing bottom / floor (39) is connected to the harvesting machine by means of an oscillating rocker (38) so that the function of: can oscillate in a direction

of motion back and forth (see arrow in fig 9) for feeding residual crop material through the chopper (i.e. the back and forth motion can and capable of feeding material through the chopper);

cl. 2, 5:

direction of motion is tangential to the circumference of the chopper (1) & also, see drawing below;

cl. 3, 6:

step shaped shoulder at a front end of the bottom / floor for improved pushing of material through the chopper (note: without the step shaped shoulder the material would not as aggressively move through the chopper; also, see drawing below);

cl. 7, 8:

see drawing below;

cl. 11:

as best shown in fig 9, or drawing below, the connection between the housing bottom & the shoe is mechanical, and the shoe is capable of setting the housing bottom into oscillating motion as shown by the left & right arrows;

cl. 12, 15:

pivotable joint as shown in the drawing below;

the functional recitation of cl. 14, is met by the structure disclosed by the prior art as shown, such as: residue and/or second crop stream can be fed to and can be led past the discharge device in chopping and straw deposition modes respectively;

it is noted that a functional recitation must be expressed as a “means” for performing the specified function, otherwise the intended use of the device does not differentiate the claimed apparatus from the prior art apparatus satisfying the claimed structural limitations;

cl. 4, 13, 16:

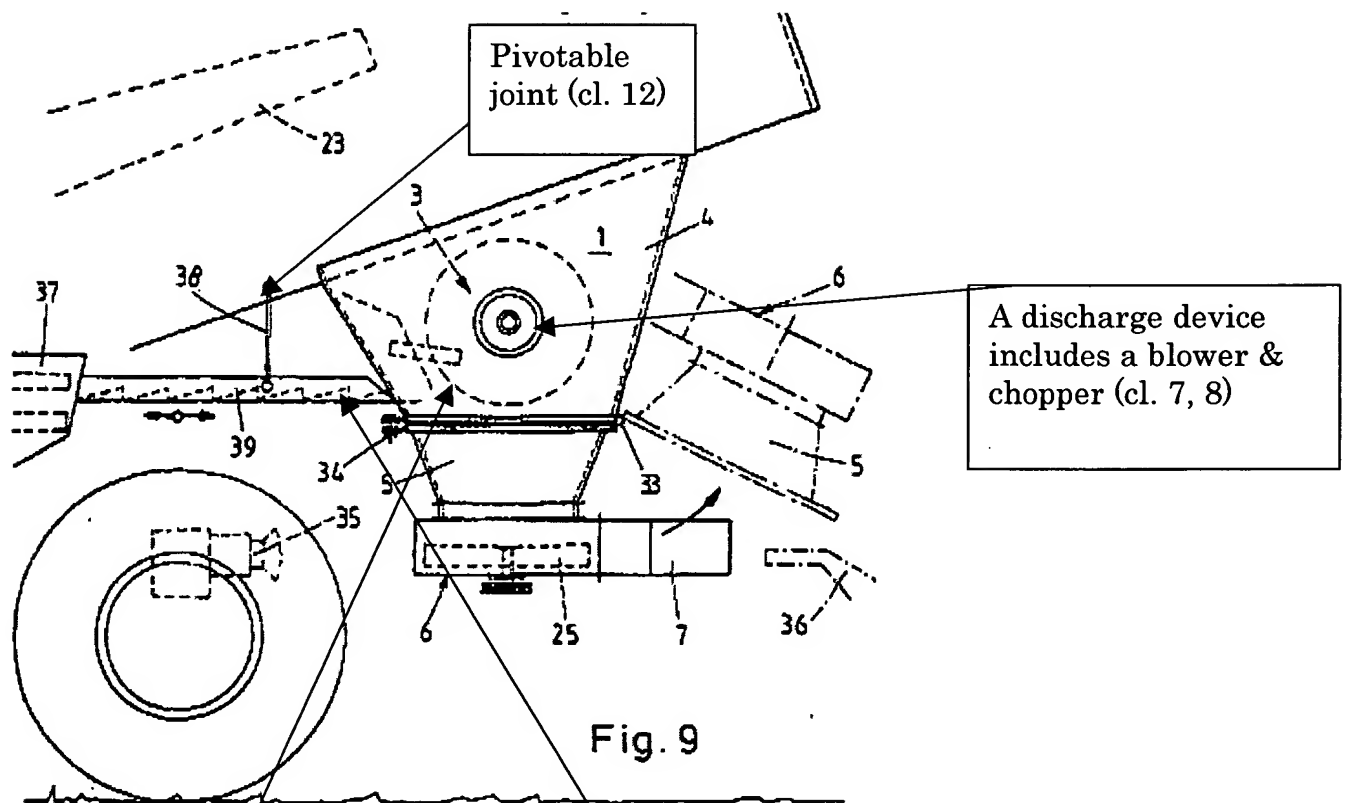
an oscillating floor bottom of the cleaning assembly (37) is rigidly connected to the housing bottom;

cl. 17:

the closest approach of the housing bottom with respect to the chopper circumference is considered to be a point forward of the rearward edge of the bottom, and as shown the bottom is underneath of the chopper (the chopper is

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above, the bottom is below a plane taken horizontally in a fore-and-aft direction of the housing).



Chopper's circumference tangential to the bottom (cl. 2, 5)

An oscillating bottom (of the housing) can be moved back & forth as shown by the arrow (cl. 1, 4); with stepped shaped shoulder (cl. 3, 6), inherently mechanically connected to the cleaning shoe, can be set into an oscillating motion by movement of the cleaning shoe (cl. 11)

*Response to Arguments*

3. Applicant's arguments filed 1/12/2006 have been fully considered but they are not persuasive.

Applicant argues in re claims 1 & 4, pages 5-6, that ref 39 is not a bottom of the housing ref 4; however, the claim does not differentiate it from the prior art, because the housing is not delimited to drawings. The actual claim is broader and the floor is also not claimed to be directly bellow the chopper. Therefore, the bottom ref 39 is capable of feeding crop material through the chopper. It is noted that the claim language recites a probability, i.e. "can oscillate ... ."

Regarding the "step shaped shoulder" is not capable of performing the function the claim 3 recites, it is not agreed with. The edge is shown to be about vertical shoulder that is capable of performing the function recited in the claim.

Regarding the rigid and pivotable joint connections between the floor bottom and the housing bottom, it is construed that a rigid connection can be pivotable as the claim functionally claims.

It is unclear, but it appears the "three different ways" of which the material



can be laid, might be related to claim 14. If it is, then it is noted that the claim only functionally claim, i.e. "can be." The prior art can be applicable in laying crop in a number of ways. It is noted that the Applicant does not set forth any structural limitation, therefore can be statement is not supported by any structure.

In re new claim 17, it is noted that as rejected above, underneath does not mean to be directly below the chopper.

In summary, it appears that the claim language does not set forth the bottom being directly below the chopper, as the Applicant appears to suggest in the arguments. Although, this recitation would require further search and examination, it appears that one skilled in the art would be able to position any of the elements either forwardly or backwardly in relation to the harvester frame or housing.

*Conclusion*

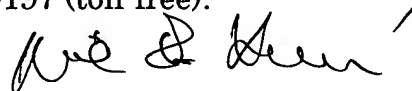
4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Árpád Fábián Kovács whose telephone number is 571 272 6990. The examiner can normally be reached on Mo-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 571 272 6998. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Árpád Fábián Kovács  
Primary Examiner  
Art Unit 3671

ÁFK